Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Aghazarian | Analyst: Darrine Distefano | Bill Number: AB 291

Related Bills: See Prior Analysis | Telephone: 845-6458 | Amended Date: May 14, 2003

Attorney: Patrick Kusiak | Sponsor: ____

SUBJECT: Agricultural Environmental Remediation Expenditure Credit/Allowed To Individuals Engaged In Agricultural Business Activity In San Joaquin River, Sacramento River, Or Tulare Lake Basins

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended ____.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 26, 2003, STILL APPLIES.

X OTHER - See comments below.

SUMMARY

This bill would allow a tax credit for agricultural environment remediation expenses.

SUMMARY OF AMENDMENTS

The May 14, 2003, amendments made the following changes:

- Adds the term "agricultural environment" to identify the type of remediation expenses that are eligible for the credit.
- Replaces the term "individual" with the term "taxpayer" to define a "qualified taxpayer" under the Personal Income Tax Law (PITL).
- Requires the qualified contaminated site to be certified by the regional water quality control board with that certification to be made available to the Franchise Tax Board upon request.
- Requires the regional water quality control board to certify that the taxpayer's property is contaminated or has the threat of being contaminated.
- Clarifies that the credit is unavailable if the qualified taxpayer has elected to take the federal deduction for qualified agricultural environment remediation expenses.
- Requires the taxpayer to reduce the basis of the property by the amount of credit taken in the taxable year the credit is allowed.
- Limits the carryover of the credit to six years.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	5/28/03
____ N	____ OUA	X PENDING		

The May 14th amendments resolve the department's implementation, technical, and policy concerns from the March 26th analysis. However, the amendments raise a technical concern that is addressed below. A revised revenue estimate is provided below. The remainder of the department's analysis of the bill as amended March 26, 2003, still applies.

POSITION

Pending.

TECHNICAL CONSIDERATIONS

This bill allows any excess of the credit to be carried over in the following six years. Usually any carryover of a credit can be used in the following succeeding several years until exhausted. The carryover language under this bill could be interpreted to do one of the following: a) allow the full amount of the credit to be used for each of the six years, or b) allow the taxpayer to choose which of the six years that they would be able to carryover the credit. Deviating from the standard carryover language could cause confusion for the taxpayer and could complicate the administration of the credit. Amendments 1 & 2 have been provided to correct the technical consideration.

ECONOMIC IMPACT

Revenue Estimate

This bill, under the assumptions discussed below, is estimated to generate the following revenue losses:

Revenue Impact of AB 291 Tax Years Beginning After 1/1/2003 Enactment Assumed After June 30, 2003 $ Millions			
	2003-4	2004-5	2005-6
Revenue Impact	–$1.60	-$1.70	-$1.70

Estimates are tentative and could be revised as more accurate information about the farmers' participation rate in watershed groups becomes available in July 2003.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue loss estimate for 2005/06 is $100,000 less than the preliminary revenue analysis sent to the author's office before the May 14th amendments, due to the basis adjustment provision in the amended bill.

Data from the California Department of Water Resources show that the targeted three counties have a total of about 7 million acres of irrigated land. Following discussions with industry experts, the average cost per acre was assumed to be $500. It was assumed that 40% of farmers in the three basins have desirable soil conditions for abatement systems and have already made some remedial investments in the past to comply with federal and state clean water acts.

It is assumed that the bill intends to provide a tax credit to agricultural businesses that do not join a watershed group. Discussions with industry experts indicate there is uncertainty about the percentage of farmers or acres that would ultimately join a watershed group. Many factors, but most importantly the California Water Resources Control Board decisions, would affect this percentage. A definitive answer to this question will be available in July 2003 as the Board finalizes its decision regarding watershed groups. Therefore, estimates are tentative and could be revised as more accurate information becomes available in July 2003. The incentive to join a watershed group is quite high due to reductions in abatement and other regulatory compliance costs; however, some farmers may opt to stay out of a watershed group due to physical/geographical reasons or to take advantage of the tax credit. It is, therefore, assumed that 80% of acres would be in a watershed group. Of the remaining 20% of the taxpayers that opt out of a watershed group, it is assumed that only 40% could use the credit due to soil conditions.

The first year impact was arrived at as follows:

Qualified costs = $16,186,667 x 0.85 x 0.69 = <u>$9,500,000</u>

The qualified costs were calculated using the cost per acre ($500) multiplied by the number of acres that would replace abatement systems (32,373 acres) each year ($500 x 32,373 = $16,186,667). This total ($16,186,667) was multiplied by the apportionment factor (85%) and the percentage of farmers (69%) that would have a positive income to use the credit.

Tax effect of deductions under current law = 0.08 × $9,500,000 = <u>$760,000</u>

Tax effect of credits under proposed law = 0.25 × $9,500,000 = <u>$2,375,000</u>

Revenue impact = <u>$2,375,000</u> – <u>$760,000</u> = <u>$1,615,000</u>

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 291
As Amended May 14, 2003

AMENDMENT 1

On page 4, strikeout lines 20 and 21 and insert:

tax" in the following year, and succeeding six years, if necessary, until the credit is exhausted.

AMENDMENT 2

On page 6, strikeout lines 13 and 14 and insert:

the following year, and succeeding six years, if necessary, until the credit is exhausted.